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March 2, 2023

Honorable Katherine Polk Failla
United States District Judge
Southern District of New York
Thurgood Marshall
United States Courthouse
40 Foley Square
New York, NY 10007

MEMO ENDORSED

Filed on ECF and by email to failla_nysdchambers@nysd.uscourts.gov

United States v. Sururi Barbee
20 Cr. 403 (KPF)

Dear Judge Failla:

We respectfully request permission to file the following brief reply to the Government's response to our §2255 motion (ECF No. 59):

We submit that diligent counsel performing a proper investigation of the 3553(a) factors had a duty to know about and inform the Court of the uniquely serious, debilitating and attention-requiring conditions suffered by Mr. Barbee's mother, as well as the affect it has had on him over his life and his role in caring for her previously, currently and going forward. Failure to perform this duty could not have been a proper "strategic choice" as is suggested by the Government. Moreover, neglecting to inform the Court of this information could not have been harmless if the Court would have taken it into consideration in coming to a just VOSR sentence. These facts clearly qualify as "mitigating circumstances" and, among other things, Mr. Barbee's role as his mother's caregiver could have played a distinct part in the rehabilitative scheme available to the Court in sentencing him in this matter.

Respectfully submitted,

Sarah M. Sacks

Application GRANTED. The Court will take account of Defendant's above reply in its consideration of Defendant's pending motion for re-sentencing. (See Dkt. #54). The Court now considers briefing on this matter closed, and will rule on the motion in due course.

The Clerk of Court is directed to terminate the motion at docket entry 60.

Dated: March 2, 2023 New
York, New York

SO ORDERED.

A handwritten signature in blue ink, reading "Katherine Polk Failla".

HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE